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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BORISSOV, IGOR N

ART UNIT PAPER NUMBER

3639

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/074,237

Applicant(s)

HUDSON, FREDERICK J.

Examiner

Igor Borissov

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

## DETAILED ACTION

### ***Response to Amendment***

Amendment received on 8/08/2005 is acknowledged and entered. Claims 1, 14, 15 and 16 have been amended. Claims 1-19 are currently pending in the application.

### ***Specification***

The disclosure is objected to because of the following informalities:

Page 11, line 18 of the specification recites the term "*the deliveror*", which lacks antecedent basis. Furthermore, it is not clear who is the deliveror: a truck driver or operator at the facility who removes items from the truck (See page 11, line 14; page 12, line 22).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "a deliveror", suitable for gathering the at least one material flow item ... and moving the at least material flow item within the material management system". It is not clear is *the deliveror* a driver of a truck or operator at the facility who removes items from the truck. There is no clear definition in the Claims or specification of the term "*a deliveror*" (See specification page 11, line 14; page 12, line 22).

Claim 15 recites "a distributor". It is not clear is *the distributor* a driver of a truck or an operator at the facility who removes items from the truck. Furthermore, the term "a distributor" is missing in the specification. The remaining Claims are rejected as being dependent on the rejected Claim.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-13 are rejected under 35 U.S.C. 101** because the claimed invention is directed to non-statutory subject matter.

Independent Claim 1 recites “a deliveror”, which, based upon the specification, could be understood as a driver of a truck or operator at the facility who removes items from the truck.

A claim directed to or including within its scope a **human being** will not be considered to be patentable subject matter under 35 U.S.C.101. See MPEP 2105.

The grant of limited, but exclusive property right in a human being is prohibited by the Constitution. Accordingly, it is suggested that any claim directed to a non-plant multicellular organism which would include a human being within its scope include the limitation “non-human” to avoid this ground of rejection. The use of a negative limitation to define the metes and bounds of the claimed subject matter is a permissible form of expression, *In re Wakefield*, 422 F.2d 897, 164 USPQ 636 (CCPA 1970).

Therefore, because the independently claimed invention is directed to a **human being**, those claims are not permitted under 35 USC 101 as being related to non-statutory subject matter. However, in order to consider those claims in light of the prior art, examiner will assume that those claims recite statutorily permitted subject matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-7, 11-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Radican (WO 99/38136).**

*Independent Claims*

**As per Claim 1,**

Radican teaches an inventory monitoring system, comprising:

a remote operation center that coordinates at least one portion of the materials management system, and that receives at least one attribute of at least one material flow item, wherein the at least one material flow item enters the at least one portion of the materials management system, and wherein said remote operation center updates the at least one attribute to at least one updated attribute to reflect entry of the at least one material flow item into the at least one portion (Fig. 2, item 10; page 7, line 31 – page 2, line 11; page 11, line 21-22);

at least one receiving station in the at least one portion that transmits the at least one attribute to the remote operation center, and that receives the at least one update attribute from the remote operation center, over an interconnection external to the at least one portion (Fig. 2, items 30 and 60);

a deliveror, suitable for gathering the at least one material flow item from said at least one receiving station and moving the at least material flow item within the material management system through the at least one portion that transmits the at least one attribute to the remote operation center, and that receives the at least one updated attribute from the remote operation center (page 8, lines 11-16);

wherein the at least one attribute and the at least one updated attribute are reconciled at the receiving station by scanning an identification of the at least one receiving station, and the at least one material flow item, and the deliveror, and wherein said at least one attribute includes at least an identification barcode (page 8, lines 16, 28-32; page 9, lines 7-11).

**As per Claim 16,**

Radican teaches an inventory monitoring method, comprising:

receiving the at least one updated attribute at an at least one local receiving station, in accordance with an entry of the at least one updated attribute (page 8, lines 20-27);

transmitting an at least one local attribute, from the at least one local receiving station, to a remote operation center, responsively to said receiving the at least one updated attribute, wherein the at least one updated attribute, and the at least one local attribute at the local receiving station, and a receipt of the transmitted at least one local attribute at the remote operation center, are substantially simultaneously reviewable at the at least one local receiving station (page 8, lines 28 – page 9, line 5; page 11, lines 23-29).

**Dependent Claims**

**As per claim 2**, said system, wherein the remote operation center is accessible from any communicative connection with the external interconnection (page 10, lines 28-31).

**As per claim 3**, said system, wherein the at least one attribute and the at least one updated attribute comprise at least one selected from the group consisting of a present location, status and desired delivery destination (page 9, lines 19-26; page 11, lines 30-31).

**As per claims 4-6**, said method and system, wherein the copy link provides a link from the remote operation center to real-time operations at least one of the receiving stations (page 8, lines 17-19).

**As per claim 7**, said method and system, wherein the at least one receiving station comprises an infrared (optical) scanner communicatively connected to a programmable electronic device (page 8, line 14).

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**As per claim 12**, said method and system, wherein at least one updated attribute comprises previous ones of the receiving stations through which the at least one material flow item has passed (page 11, lines 18-22).

**As per claim 13**, said method and system, wherein one of the at least one receiving stations comprises a delivery station, and wherein the delivery station comprises a final receiving station through which the at least one material flow item passes (page 9, lines 25-26).

**As per claims 17**, comprising modifying the at least one local attribute at the remote operation center, wherein the modified at least one local attribute is additionally substantially simultaneously reviewable at the at least one local receiving station (page 8, lines 19-21).

**As per Claims 18**, said method further comprising controlling the material flow of the controlled material at said at least one receiving station in accordance with the at least one modified attribute and the at least one updated attribute (page 11, line 18-23).

**As per Claims 19**, said method, wherein said controlling comprises receiving at least one user command from the local receiving station, wherein the user command is responsive to the substantially simultaneous review at the at least one local receiving station by the user (page 8, line 28 – page 9, line 7).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radican in view of Markham et al. (US 2003/0158795) (Markham).**

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**As per Claims 8-10**, Radican teaches all the limitations of Claims 8-10, including that the programmable device is a remote data transceiver, which appears to be a hand-held device (Fig. 2, item 18; page 8, line 5). However, Radican does not explicitly teach that said hand-held device is a PDA.

Markham teaches a system for storing a data associated with a material during manufacturing, wherein a PDA may be used for collecting and transmitting said data [0287].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Radican to include that the programmable device is a PDA, as disclosed in Markham, because it would advantageously allow to use said system in the areas where wired communication is not available.

**Claims 11, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radican.**

*Independent Claims*

**As per Claim 14,**

Radican teaches an inventory monitoring method, comprising:

scanning the at least one inventoried item upon entry into the materials management flow at a first local receiving station, said first local receiving station located at a first of the distinct geographic locations (page 9, lines 8-10; page 7, lines 2-11; Figs. 12A-12D; page 20, lines 15-17);

scanning the at least one inventoried item at each of the plurality of receiving station prior to delivery of the item, said plurality of receiving stations located at a second geographic location distinct from the first geographic location (page 9, lines 8-10 Figs. 12A-12D);

scanning the at least one inventory item upon exit from each of said plurality of receiving stations (recording time of arrival of a container starts a retention time clock to accurately measure the total amount of time a container is retained on the premises (page 9, lines 11-15; page 18, lines 9-10);



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reconciling placement of the item at said plurality of the receiving stations, at a remote operation center externally connected to said stations (page 7, lines 2-11, 17).

Radican does not explicitly teach scanning each of said plurality of the receiving stations.

However, Radican does teach that each of said receiving stations, which said distributor (truck) arrived at, has a unique identifier (page 7, lines 2-5).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Radican to include scanning an identification of the at least one receiving station, because it would advantageously allow to record status and location of shipped goods and create the basic framework for compiling detailed data on the shipping process which can be used by the facility, suppliers and carriers to optimize logistics, as specifically stated in Radican (page 7, lines 14-18).

**As per Claim 15,**

Radican teaches an inventory monitoring method, comprising:

coordinating of at least one portion of the materials management system at a remote operation center (page 7, line 31 – page 2, line 11; page 11, line 21-22);

externally transmitting at least one attribute to the remote operation center from at least one receiving station (page 11, lines 18-21);

receiving the at least one attribute of at least one material flow item in the at least one portion of the materials management system at the remote operation center (page 11, lines 18-21);

updating the at least one attribute to at least one updated attribute at the remote operation center (page 11, line 21);

externally transmitting the at least one updated attribute from the remote operation center to the at least one receiving station (page 11, lines 21-22);

gathering at least one material flow item from the at least one receiving station by a distributor (page 8, lines 12-13; page 9, lines 7-8);

reconciling the at least one attribute and the at least one updated attribute at the at least one receiving station by scanning an identification of the at least one material flow item and the distributor (page 9, lines 8-10; page 7, lines 2-11, 17).

Radican does not explicitly teach that reconciling also includes scanning an identification of the at least one receiving station.

However, Radican does teach that each of said receiving stations, which said distributor (truck) arrived at, has a unique identifier (page 7, lines 2-5).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Radican to include that reconciling also includes scanning an identification of the at least one receiving station, because it would advantageously allow to record status and location of shipped goods and create the basic framework for compiling detailed data on the shipping process which can be used by the facility, suppliers and carriers to optimize logistics, as specifically stated in Radican (page 7, lines 14-18).

*Dependent Claim*

**As per Claim 11**, Radican teaches all the limitations of Claim 11, except that at least one receiving station comprises a barcode printer.

However, Radican does teach that at least one updated attribute comprises a barcode realized as scannable bar code tags which are placed on the at least one material flow item (page 19, lines 27-28). Furthermore, Radican teaches printers for producing hard copy reports (page 8, lines 5-6).

Therefore, it would have been obvious to one having ordinary skill in art the time the invention was made to modify Radican to include that at least one receiving station comprises a barcode printer, because it would advantageously allow to employ available technology for collecting necessary data, such as bar code readers Telxon PTC 921 and PTC 912DS (Radican, page 8, line 16).

### ***Response to Arguments***

Applicant's arguments filed 8/08/2005 have been fully considered but they are not persuasive.

In response to applicant's argument that the prior art fails to disclose a *deliveror*, it is noted that Radican does teach this feature. Specifically, Radican teaches said system wherein truck drivers (deliveror) use various equipment for obtaining and communicating data related to arriving containers (page 8, lines 11-19).

In response to applicant's argument that the prior art fails to disclose *tracking* feature *via scanning*, the examiner stipulates that Radican does, in fact, disclose this feature. Specifically, Radican teaches said system and method wherein the system constantly monitors the movement of the container by inputting carrier and container identifying indicia upon arriving the container on each of a plurality of receiving stations, wherein said inputting step is conducted via optical scanners, bar code or RFID tag technology (page 8, lines 11-16; page 9, lines 7-13).

In response to applicant's argument that the prior art fails to disclose at least one tertiary station, it is noted that Radican teaches a plurality of receiving stations (Fig. 2, items 30, 60).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

Chung (US 6,883,710) teaches a method and system for article tracking at a plurality of stations, wherein identification of a the article, the operation of the operator , arrival and departure time are scanned into the system using bar code or RFID technology (C. 6, L. 35-44).

McDonald teaches a method and system for tracking and locating a movable article.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

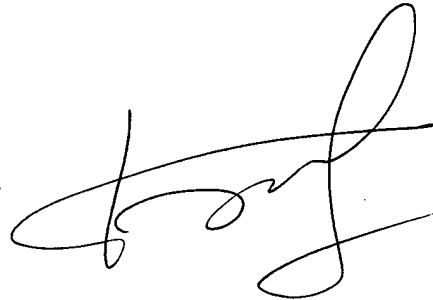
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Igor Borissov  
Patent Examiner  
Art Unit 3639

A handwritten signature in black ink, appearing to be 'Igor Borissov', written in a cursive style.

IB

8/28/2005